BILL NO. Z-85-06-37

ZONING ORDINANCE NO. Z-15-85

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. E-3.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a B-3-B (General Business) District under the terms of Chapter 33 of the Code of the City of Fort Wayne, Indiana of 1974:

Commencing at a point on the north line of the Northeast quarter of Section 7, Township 30 North, Range 12 East on the centerline of the Illinois Road, 1,449 feet East of the Northwest corner of said quarter section; thence South a distance of 2,714 feet to a point in the South line of said quarter section, which point is 1,441.8 feet East of the Southwest corner of said quarter section; thence East on the South line of said quarter section 252 1/3 feet; thence North to a point in the center of the Illinois Road 252 1/3 feet East of the place of beginning; thence West on the centerline of said Illinois Road 252 1/3 feet to the place of beginning.

Excepting therefrom, that part conveyed to the State of Indiana by Deed Record 668, pages 458-459, for right of way purposes, as more particularly described as follows:

The South 75 feet of the North 75 feet of the following described real estate: Commencing at a point on the North line of the Northeast quarter of Section 7, Township 30 North, Range 12 East on the centerline of the Illinois Road, 1,449 feet East of the Northwest corner of said quarter section; thence South a distance of 2,714 feet to a point in the south line of said quarter section, which point is 1,441.8 feet East of the Southwest corner of said quarter section; thence East on the South line of said quarter section, 252 1/3 feet; thence North to a point in the center of the Illinois Road 252 1/3 feet East of the place of beginning; thence West on the centerline of said Illinois Road 252 1/3 feet to the place of beginning, said South 35 feet of said North 75 feet contains 0.203 acres, more or less, and lies south of and adjoining to the existing South boundary of State Road #14.

The East 20 rods of the following described tract, viz: Commencing at the intersection of the centerline of the Illinois and Getz Road at the Northwest corner of the Range 12 East; thence East along the centerline of the Illinois Road, 1,449 feet to a point on the north line of the Northeast Quarter of said Section, Township and Range; thence South 2338.5 feet to a point 375.5 feet North of the South line of the Northeast Quarter of said Section, Township and Range; thence West and

parallel to the South line of said Quarter Section, 1,441.8 feet to a point in the centerline of the Getz Road at the point 375.5 feet North of the Southwest corner of the Northeast Quarter of Section 7, Township 30 North of Range 12 East; thence North 2,316.8 feet along the centerline of the Getz Road, to the place of beginning.

Excepting therefrom, that part conveyed to the State of Indiana by Deed Record 668, pages 207-208, for right of way purposes, as more particularly described as follows:

The South 35 feet of the North 75 feet of the following described real estate: The East 20 rods of the following described tract of land: Commencing at the intersection of the centerline of the Illinois and Getz Road at the Northwest corner of the Norhteast Quarter of Section 7, Township 30 North of Range 12 East; thence East along the centerline of the Illinois Road 1,449 feet to a point on the North line of the Northeast quarter of said Section, Township and Range; thence South 2,338.5 feet to a point 375.5 feet North of the South line of the Northeast quarter of said Section, Township and Range; thence West and paralel to the South line of said quarter section 1,441.8 feet to a point in the centerline of the Getz Road to a point 375.5 feet North of the Southwest corner of the Northeast quarter of Section 7, Township 30 North of Range 12 East; thence North 2,316.8 feet along the centerline of the Getz Road to the place of beginning, said South 35 feet of said North 75 feet contains 0.265 acres, more or less, and lies South of and adjoining to the existing south boundary of State Road #14,

and the symbols of the City of Fort Wayne Zoning Map No. E-3, as established by Section 11 of Chapter 33 of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Marvin B. Reed
COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY:

BRUCE O. BOXBERGER, CITY ATTORNEY

Read the first time in full and on motion by Redd, seconded by Talarico, and ~~duly~~ adopted, read the second time by title and referred to the Committee Public Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, ~~City-County Building~~, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____.M.,E.S.T.

DATE: 6-25-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Redd, seconded by Talarico, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
HENRY	✓				
REDD	✓				
SCHMIDT	✓				
STIER	✓				
TALARICO	✓				

DATE: 11-26-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 3-15-85 on the 26th day of November, 19 85,

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)
Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of November, 19 85, at the hour of 1:00 o'clock P.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 5th day of December, 19 85, at the hour of 3:30 o'clock P.M.,E.S.T.

WIN MOSES, JR., MAYOR

PETITION FOR ZONING ORDINANCE AMENDMENT

RECEIVED
MAY 16 1985
FORT WAYNE
CITY PLANNING COMMISSION

RECEIPT NO. _____

DATE FILED _____

INTENDED USE _____

THIS IS TO BE FILED IN DUPLICATE

I/We Anna M. Brough and C. Fay Psehes
(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from an R-1 District to a/an B-3-B District the property described as follows:

The parcels more particularly described in Exhibits "A" and "B" attached hereto, and by this reference incorporated herein, Exhibit "A" containing the legal description of property owned by Anna M. Brough and Exhibit "B" containing the legal description of property owned by C. Fay Psehes.

(Legal Descrption) If additional space is needed, use reverse side.

ADDRESS OF PROPERTY IS TO BE INCLUDED:

5611 Illinois Road, Fort Wayne, IN 46804 and

5701 Illinois Road, Fort Wayne, IN 46804
(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

(Name)	(Address)	(Signature)
Anna M. Brough	5611 Illinois Road Fort Wayne, IN 46804	Anna M. Brough
C. Fay Psehes	2907 Kingsley Drive Fort Wayne, IN 46805	C. Fay Psehes

(If additional space is needed, use reverse side.)

Legal Description checked by _____.
(OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or requst that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinanc being sent to the newspaper for legal publication. If the request for deferral, continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at which it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matte for hearing before the City Plan Commission. (FILING FEE $50.00)

Name and address of the preparer, attorney or agent.

(Name)	(Address & Zip Code)	(Telephone Number)
Wayne L. Witmer	Post Office Box 2263 Fort Wayne, IN 46801	(219) 423-9551

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street, Fort Wayne, IN 46802 (PHONE: 219/ 427-1140).

Applicants, Property owners and preparer shall be notified of the Public Hearing approximately ten (10) days prior to the meeting.

Legal Description of property to be rezoned.

The parcels more particularly described in Exhibits "A" and "B" attached hereto, and by this reference incorporated herein, Exhibit "A" containing the legal description of property owned by Anna M. Brough and Exhibit "B" containing the legal description of property owned by C. Fay Psehes.

Owners of Property

(Name)	(Address)	(Signature)
Anna M. Brough	5611 Illinois Road Fort Wayne, IN 46804	X Anna M. Brough
C. Fay Psehes	2907 Kingsley Drive Fort Wayne, IN 46805	X C. Fay Psehes

NOTE: All checks are to be made payable to: CITY OF FORT WAYNE

This form is to be filed in duplicate.

NOTICE:

FILING OF THIS APPLICATION GRANTS THE CITY OF FORT WAYNE PERMISSION TO POST "OFFICIAL NOTICE" ON THE PETITIONED PROPERTY.

FAILURE TO POST, OR TO MAINTAIN POSTING CAN PREVENT THE PUBLIC HEARING FROM BEING HELD.

EXHIBIT "A"

Commencing at a point on the North line of the Northeast quarter of Section 7, Township 30 North, Range 12 East on the centerline of the Illinois Road, 1,449 feet East of the Northwest corner of said quarter section; thence South a distance of 2,714 feet to a point in the South line of said quarter section, which point is 1,441.8 feet East of the Southwest corner of said quarter section; thence East on the South line of said quarter section 252-1/3 feet; thence North to a point in the center of the Illinois Road 252-1/3 feet East of the place of beginning; thence West on the centerline of said Illinois Road 252-1/3 feet to the place of beginning.

Excepting therefrom, that part conveyed to the State of Indiana by Deed Record 668, Pages 458-459, for right of way purposes, as more particularly described as follows:

The South 35 feet of the North 75 feet of the following-described real estate: Commencing at a point on the North line of the Northeast quarter of Section 7, Township 30 North, Range 12 East on the centerline of the Illinois Road, 1,449 feet East of the Northwest corner of said quarter section; thence South a distance of 2,714 feet to a point in the South line of said quarter section, which point is 1,441.8 feet East of the Southwest corner of said quarter section; thence East on the South line of said quarter section, 252-1/3 feet; thence North to a point in the center of the Illinois Road 252-1/3 feet East of the place of beginning; thence West on the centerline of said Illinois Road 252-1/3 feet to the place of beginning, said South 35 feet of said North 75 feet contains 0.203 acres, more or less, and lies south of and adjoining to the existing South boundary of State Road 14.

EXHIBIT "B"

The East 20 rods of the following-described tract, viz: Commencing at the intersection of the centerline of the Illinois and Getz Road at the Northwest corner of the Northeast Quarter of Section 7, Township 30 North of Range 12 East; thence East along the centerline of the Illinois Road, 1,449 feet to a point on the North line of the Northeast Quarter of said Section, Township and Range; thence South 2,338.5 feet to a point 375.5 feet North of the South line of the Northeast Quarter of said Section, Township and Range; thence West and parallel to the South line of said Quarter Section, 1,441.8 feet to a point in the centerline of the Getz Road at the point 375.5 feet North of the Southwest corner of the Northeast Quarter of Section 7, Township 30 North of Range 12 East; thence North 2,316.8 feet along the centerline of the Getz Road, to the place of beginning.

Excepting therefrom, that part conveyed to the State of Indiana by Deed Record 668, Pages 207-208, for right of way purposes, as more particularly described as follows:

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RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on June 25, 1985, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-85-06-37; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on June 17, 1985;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact":

(1) the grant will not be injurious to the public health, safety, morals and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 22, 1985.

Certified and signed this
28th day of October 1985.

Melvin O. Smith
Secretary

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR REAL ESTATE IN SECTION 7, TOWNSHIP 30 NORTH,
RANGE 12 EAST, ALLEN COUNTY, INDIANA

WHEREAS, Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, have purchased certain real estate in Allen County, Indiana, more particularly described in Exhibit "A", attached hereto, and by this reference incorporated herein;

WHEREAS, Maurice D. O'Daniel and Germaine A. O'Daniel being desirous of developing the attached described parcel into a full service automobile dealership have petitioned the Fort Wayne City Plan Commission for a zoning ordinance amendment to permit such use, said petition bearing Number 134; and following the public hearing on said petition held on June 17, 1985, the Fort Wayne City Plan Commission did recommend "do pass" with regard to said zoning ordinance amendment, with the condition that certain covenants be submitted running with the land, all as further described herein;

WHEREAS, in compliance with said conditions and to provide for the harmonious and best use of the said tract of real estate, Maurice D. O'Daniel and Germaine A. O'Daniel are desirous of imposing said covenants, conditions and restrictions upon said real estate.

NOW, THEREFORE, the undersigned Maurice D. O'Daniel and Germaine A. O'Daniel hereby declare that the attached described real estate or any subdivision thereof shall be limited as follows:

A. The owners of this real estate will dedicate to the City of Fort Wayne at no cost and at any time the City so notifies the owners sufficient real estate for the construction of a 40-foot frontage road along the south side of Illinois Road. The northern edge of this frontage road will border the City's right-of-way on Illinois Road.

B. The owners of this real estate shall pay all costs and expenses for the engineering and construction of the portion of the frontage road that is on the real estate described in Exhibit "A".

C. The owners shall reserve, and upon notification by the City shall plant and maintain a perimeter landscaping buffer strip not less than 30 feet wide along the entire South line of the real estate described in Exhibit "A".

D. The undersigned shall submit for approval by the Division of Community Development and Planning of the City of Fort Wayne a landscaping plan for development of the attached described tract of real estate.

E. The undersigned shall submit applications to the Department of Traffic Engineering of the City of Fort Wayne for all curb cuts, and any such curb cuts can be closed by the City of Fort Wayne when deemed appropriate in the City's sole discretion and without compensation to owners and occupants of the real estate.

F. The undersigned agree that the above-described frontage road along the south side of Illinois Road must be constructed at such time as requested by the Department of Traffic Engineering of the City of Fort Wayne.

G. If it becomes necessary for the City of Fort Wayne to institute a lawsuit to enforce the terms of this Declaration of Covenants, Conditions and Restrictions, the undersigned agree that damages are insufficient and agree the City has

the right to injunctive relief and specific performance of this declaration along with reasonable attorney's fees.

H. This Declaration of Covenants, Conditions and Restrictions shall run with the land and shall be binding on the undersigned, their heirs, successors and assigns.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed this 11th day of October, 1985.

Maurice D. O'Daniel

Germaine A. O'Daniel

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, personally appeared Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, each over the age of eighteen (18) years, and acknowledged the voluntary execution of the foregoing for the uses and purposes therein set forth this 11th day of October, 1985.

Wayne L. Witmer - Notary Public
A Resident of Allen County.

My Commission Expires:

June 2, 1988

This Instrument Prepared by Wayne L. Witmer, Attorney at Law.

Admn. Appr. _____

DIGEST SHEET

ORIGINAL ORIGINAL

TITLE OF ORDINANCE Zoning Ordinance Amendment 3-85-06-37

DEPARTMENT REQUESTING ORDINANCE Land Use Management - CD&P

SYNOPSIS OF ORDINANCE 5611 & 5701 Illinois Road

EFFECT OF PASSAGE Property is now zoned R-1 - Single Family Residential.
Property will become B-3-B - General Business.

EFFECT OF NON-PASSAGE Property will remain R-1 - Single Family Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

ASSIGNED TO COMMITTEE (J.N.) _____

FACT SHEET

Z-85-06-37
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Ordinance Amendment		

DETAILS

Specific Location and/or Address

5611 & 5701 Illinois Road

Reason for Project

Establish a new car dealership.

Discussion (Including relationship to other Council actions)

Public Hearing - June 17, 1985

Wayne Witmer, attorney representing the petitioners. Mr. Witmer stated that he is representing not the owners but the prospective owners, Mr. & Mrs. Maury O'Daniel. He stated that Mr. O'Daniel operates O'Daniel Oldsmobile on Bluffton Road. He stated Mr. O'Daniel has a purchase agreement with the owners contingent upon zoning to purchase the property for the relocation of the dealership to this Illinois Road property. He stated that presently the County has jurisdiction on the North side of Illinois Road and the City on the South side. He stated that ■■ the staff report points out they are aware that a number of uses are allowed in ■ B-3-B zoning which are not desirable on this location. He stated that they are willing to incorporate restrictive covenants on the property. He stated even though not all of this area is business he felt that the area is changing and taking ■ trend toward businesses along this corridor. He stated that new development in this area is largely commercial. He stated further that Illinois Road is a 4-lane highway with ■ 45 mph speed limit, something that is not conducive to residential development. Mr. Witmer stated that there is ■ problem with the legal description and the property shown is more than they intend to purchase. He stated that they are working on a new survey for the property.

Mrs. Kenna stated that she had difficult with the access to the properties on Illinois Road. She questioned if the City/County has any future plans to develop this property with limited access.

Jack Powell, staff member of the County Plan Commission. Mr. Powell stated that approximately 5 years ago County Plan adopted a policy relative to Illinois Road, wherein - whenever there was a commercial request before the County Plan Commission they sought ■ restrictive covenant from the petitioner agreeing to limit access to Illinois Road and they had adopted ■■ overall policy that they had worked out with the City Traffic Engineering Department, which pinpoints suggested access points. He stated that the goal is to limit the number of curb cuts on Illinois Road, he stated maybe every ■ or 7 hundred feet there would be a major cross over and all other parcels would funnel to that point. He stated they would funnel to that point via ■ frontage road, a 40 to 50 foot wide easement that would stretch along the entire length of Illinois Road, or nearly. He stated that every rezoning that has appeared before the County Plan Commission, that does not have frontage on one of the public r/w that goes off of Illinois Road, such as Getz Road, they have ■ restrictive covenant where the property owner agrees that when the property next to him, or the properties between him and the approved acess point onto Illinois Road is rezoned and developed he will close his access onto Illinois Road and funnel all of his traffic down to the property next door. He stated that the frontage road will be constructed by the property owners and it will not be ■ taxpayer expense. He stated that ■■ ■ result of that they have approved a number of rezonings on Illinois Road.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	**City Wide** **Other Areas**
Applicants/ Proponents	**Applicant(s)** Anna M. Brough C. Gay Psehes **City Department** **Other**
Opponents	**Groups or Individuals** **Basis of Opposition**
Staff Recommendation	☐ For ☒ Against **Reason Against** 1) adverse impact on area 2) not in keeping with comprehensive plan
Board or Commission Recommendation	**By** ☒ For ☐ Against ☐ No Action Taken ☐ For with revisions to conditions (See Details column for conditions
CITY COUNCIL ACTIONS (For Council use only)	☐ Pass ☐ Other ☐ Pass (as amended) ☐ Hold ☐ Council Sub. ☐ Do not pass

DETAILS

Ben Eisbart questioned if the one of the basis for County approval of commercial rezonings is the agreement with the property owners that a service road would be constructed with the property owners paying for the cost of the road.

Mr. Powell stated, yes. But stated that since contract zoning is not legal in Indiana they cannot require it. He stated that it is clear that the County Plan Commission will look with more favor on a rezoning if the petitioner offers this to the Plan Commission.

Duane Embury questioned Mr. Powell what the County Plan Comission's position on rezoning on Illinois Road is.

Mr. Powell stated that the County Plan Comission feels that with the traffic volumes on the road and that there are two nodes of major activity; one at the interchange of I-69 and the other is the Apple Glen project and the commercialism along there. He stated that as a result of this commercial use the maintenance of residential land uses along Illinois Road are becoming extremely difficult and maybe less than desirable.

Steve Smith asked Wayne Witmer to have for the Commission before its business meeting on Monday a corrected legal description which accurately depicts what they want to rezone.

Mr. Witmer stated they were working on it.

Edith Kenna stated that when the decide where the boundary is between Breconshire and the requested rezoning will the petitioner agree to landscape along that boundary in accordance to what is necessary or in accordance to what CD&P would suggest.

Mr. Witmer stated that the property is approximately 20 acres - and they will not be using all of it. He stated that to the east presently there is a heavy tree line and brush line and it is more of a buffer than a mound of earth, but stated that they would be happy to consider whatever CD&P would feel is necessary.

Mrs. Kenna stated that Mr. Witmer had said that the petitioner would be willing to covenant the use of the land and restrict it to a car dealership. She questioned if the petitioner would also be willing to an agreement regarding an access road such as the County obtains.

Mr. O'Daniel stated he did not know where a service road would go, but they would be open to any suggestions or requests that the Commission would have. He stated he would be more than happy to cooperate.

Jack Powell, stated he was now speaking as an individual and not as a member of the Allen County Plan Commission staff. He stated he did not wish to speak in opposition to the rezoning but stated he represented property owners to the south. He stated the property was included in this petition, and it was without their knowledge and they do not wish to have their property rezoned.

George Martin requested that Mr. Witmer get him a copy of the survey.

Mr. Witmer stated he would have it as soon as they can get a new survey completed.

There was no one present who wished to speak in favor of or in opposition to the proposed rezoning.

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

July 22, 1985 - Business Meeting

Of the nine members present 7 voted in favor of approval, one abstained and one did not vote.

NOTE: The Commission placed a condition on the rezoning requiring the petitioner to dedicate a frontage road and agree to participate in the cost of installation of such road. The Commission also required the petitioners to reserve a 30 foot perimeter buffer zone for landscaping. It was also stated that the frontage road would be constructed when requested by Traffic Engineering.

The petitioners have submitted a restrictive covenant agreeing to said conditions. A copy of the signed covenant is attached to the original ordinance and a copy is on file in the Plan Commissi office. The Covenant will be recorded when/if the rezoning is approved.

Project Start **Date** May 16, 1985

Projected Completion or Occupancy **Date** October 28, 1985

Fact Sheet Prepared by **Date** October 28, 1985

Patricia Biancaniello

Reviewed by **Date**

Mary Beth 11/4/85

Reference or Case Number

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

AFFIDAVIT

Comes now Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, and first being duly sworn upon their oath, doth state that they have knowledge of the following facts which are true:

1. That the aforesaid, Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, owns the real estate which is the subject of Rezoning Request Z-85-06-37, the said real estate being commonly known as 5611 & 5701 Illinois Road, Fort Wayne, Allen County, Indiana.

2. That Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, have the authority to make this Affidavit to induce the City Plan Commission of Fort Wayne, Indiana as well as the City Council of the City of Fort Wayne, Indiana to grant the aforesaid rezoning request.

3. That the subjects Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, promises and covenants with the City Plan Commission of Fort Wayne, Allen County, Indiana and the City Council of Fort Wayne, Allen County, Indiana that if the aforesaid Rezoning Request is approved that the said Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, and any and all successors in interest to the said Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, shall not remonstrate against or otherwise be a part of, any legal proceedings to prevent any action taken by the City of Fort Wayne or the Allen County Drainage Board of Allen County, Indiana to effectuate any improvement undertaken by the City or the said County as to the Lawrence Drain in Fort Wayne, Allen County, Indiana and the said commitment includes the repair, construction, reconstruction or any other improvements to the said Lawrence Drain.

4. That this Affidavit is being made to induce the City Plan Commission of Fort Wayne, Allen County, Indiana and the City Council of Fort Wayne, Allen County, Indiana to approve

Rezoning Request No. Z-85-06-37.

5. That this Affidavit and the promises and covenants contained herein shall be binding upon any and all successors in interest of Maurice D. O'Daniel and Germaine A. O'Daniel, husband and wife, to the aforesaid real estate and shall be, at the aforesaid City Plan Commission's option, recorded with the Office of the Recorder of Allen County, Indiana.

Maurice D. O'Daniel

Germaine A. O'Daniel

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 25 day of November, 1985.

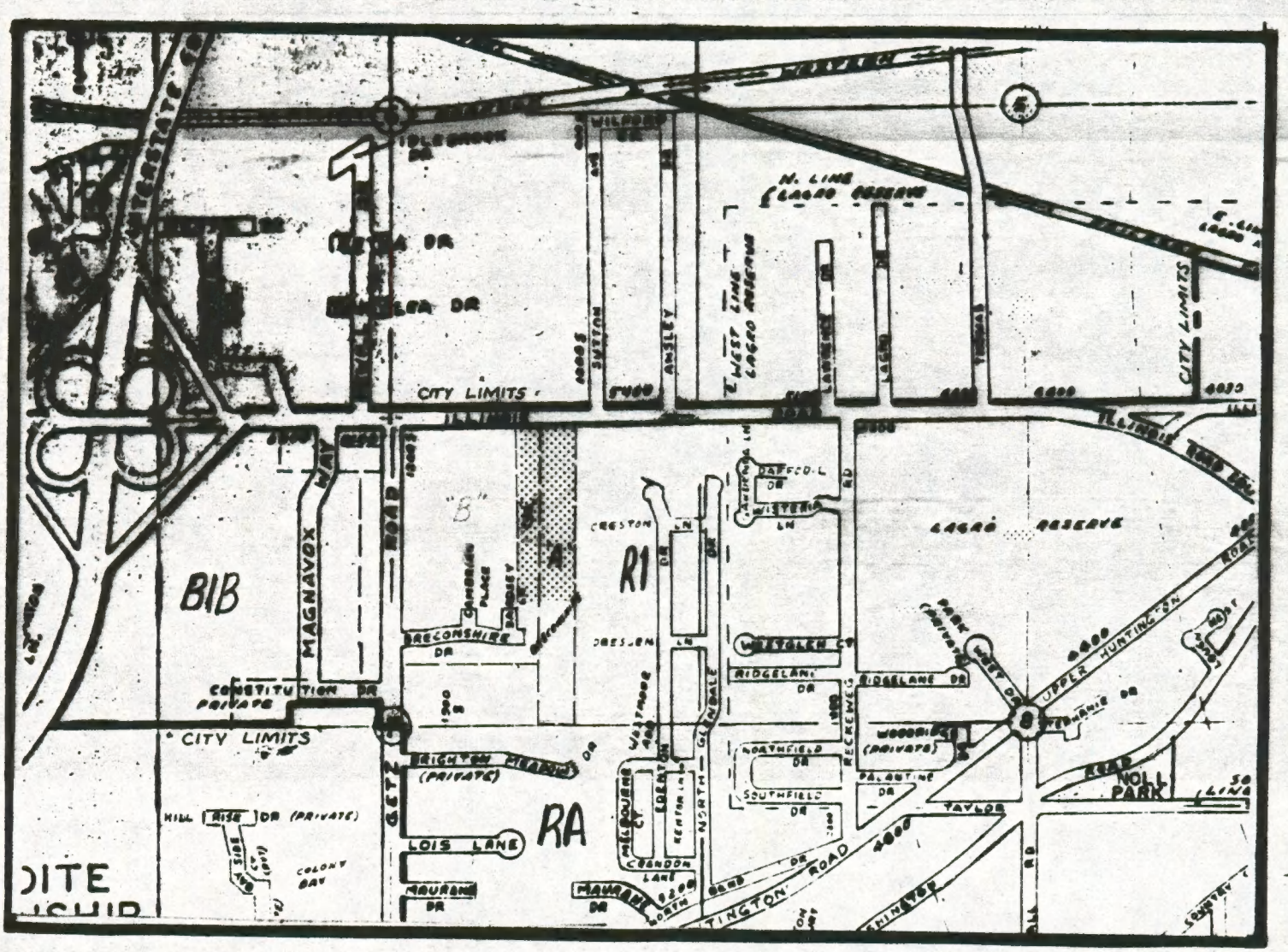
Notary Public

My Commission Expries:

11-14-89

#134

GENERAL LOCATION MAP FOR 5611 & 5701 ILLINOIS RD.



Zoning:

BIB LIMITED BUSINESS "B"
RI RESIDENTIAL DISTRICT
RA RESIDENCE "A"

Land Use:

BILL NO. Z-85-06-37

NORTH

Scale: 1" = 1430'

Date: 5-29-85

Prescribed by State Board of Accounts

L.E. BOYCE CO., MUNCIE, IND. GENERAL FORM NO. 1

check #17763

RECEIPT

№ 11997

COMMUNITY DEVELOPMENT & PLANNING

FT. WAYNE, IND., 5/16 19 85

RECEIVED FROM Barrett, Barrett + McNagny $ 50.00

THE SUM OF Fifty + 00/100 DOLLARS
100

ON ACCOUNT OF 5611 + 5701 Illinois Rd.
Rezone from R-1 to B-3-B

check #
17763

B. Steele
AUTHORIZED SIGNATURE

BILL NO. Z-85-06-37

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN (ORDINANCE) (RESOLUTION) AN ORDINANCE amending the City of Fort Wayne Zoning Map No. E-3.

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (RESOLUTION)

YES		NO
Charles B. Redd	CHARLES B. REDD CHAIRMAN	
	JANET G. BRADBURY VICE CHAIRWOMAN	Janet G. Bradbury
	JAMES S. STIER	
	BEN A. EISBART	
	DONALD J. SCHMIDT	

CONCURRED IN 11-26-85

SANDRA E. KENNEDY
CITY CLERK